

REMARKS

This response is intended as a full and complete response to the final Office Action mailed February 24, 2005. In the Office Action, the Examiner notes that claims 1, 3-15, 17, 18, 20-35, 37-43, 45, 47-60, 62, 64-80, 82-98, 101-104, 107-116, 118 and 120-145 are pending of which claims 1, 3-15, 17, 18, 20-35, 37-40, 42-43, 45, 47-60, 62, 64-80, 82-98, 101-104, 107-113, 115-116, 118 and 120-145 are allowed and claims 41 and 114 are rejected. By this response, claims 41 and 114 are amended. The amendments to the claims are fully supported by the Specification as originally filed. For example, the amendments are supported at least by U.S. Patent No. 5,659,350, (which is incorporated by reference in the present Application and in U.S. Patent No. 5,990,927, of which the present Application is a divisional) at column 40, lines 13-33. Therefore the amendments to the claims add no new matter and the Examiner is respectfully requested to enter the amendments.

In view of both the amendments presented above and the following discussion, Applicants submit that all of the claims now pending in the application are non-obvious pursuant to 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

Amendments to the Specification

The Specification has been amended to clarify that Application Serial No. 08/160,194 is now U.S. Patent No. 5,990,927; Ser. No. 08/160,281 is now U.S. Patent No. 5,798,785; Ser. No. 08/160,280 is now U.S. Patent No. 5,600,364; Ser. No. 08/160,282 is now U.S. Patent No. 5,659,350; Ser. No. 08/160,193 is now U.S. Patent No. 5,734,853; and Ser. No. 08/160,283 is now U.S. Patent No. 5,682,195.

OBJECTIONS

The Examiner has objected to the drawings for failing to comply with 37 C.F.R. §1.84(p)(4) because reference characters "200" and "220" have been used to designate a set top terminal (as shown in figures 12A and 12B). However, the Applicant hereby notes that the reason for this rejection has already been obviated by an amended drawing submitted on April 22, 1999. Nevertheless, a corrected replacement sheet of drawings in compliance with 37 C.F.R. 1.121(d) is hereby resubmitted. The replacement sheet presently submitted is identical in content to the replacement sheet submitted on April 22, 1999. The replacement sheet presently submitted, in comparison to the originally filed sheet of drawings, replaces the incorrect reference number "200" in Figure 12b with the correct reference number "220". Also presently enclosed is an annotated sheet of drawing showing the changes.

REJECTIONS

The Examiner has rejected claims 41 and 114 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,990,927 to Hendricks et al. (hereinafter "Hendricks '927") in view of U.S. Patent 5,862,299 to Lee et al. (hereinafter "Lee"). Applicants respectfully traverse the Examiner's rejection.

Applicants have amended claims 41 and 114 to clarify the limitations of the invention recited by these claims. For example, claim 41 as amended recites (emphasis added below):

"Claim 41. The system of claim 37 wherein the television program delivery system is a satellite broadcast system adapted to deliver the television program signals and digital audio signals directly to the set top terminal from a satellite transponder in communication with an operations center."

Claim 114, as amended, also recites a substantially similar limitation.

As discussed above, the amendments to claims 41 and 114 are fully supported at least by U.S. Patent No. 5,659,350, (which is incorporated by reference in the present Application and in U.S. Patent No. 5,990,927, of which the present Application is a divisional) at column 40, lines 13-33. For example, the above-referenced section of U.S. Patent No. 5,659,350 recites (emphasis added below):

"In another alternative configuration, in regions or areas without cable services, where subscribers might use backyard satellite systems (TV RO) to receive packaged television services, the set top terminal 220 will include the appropriate hardware to allow connection to the backyard satellite reception equipment, i.e., a typical communication port. In this configuration, the backyard satellite system will receive programming signals originating from the Operations Center 202 directly from the satellite transponders. No cable headend 208 is utilized with a backyard satellite system. The menu system within the set top terminal 220 will be programmed directly from the Operations Center 202. The Operations Center program signals and control signals arrive at the set top terminal 220 essentially unchanged. Additionally, in this configuration, an upstream communication mechanism must be in place at the subscriber's home (e.g., modem) to communicate information to the Operations Center 202 such as program ordering information. The set top terminals 220 can be equipped with a modem port for this upstream communication to the Operations Center 202."

Thus in one embodiment the set top terminal receives programming signals directly from a satellite transponder, which in turn receives the programming signals from the operations center. In this embodiment, there is no cable headend.

Therefore, the limitations of claims 41 and 114, as amended, properly have a priority date of at least December 2, 1993, the filing date of U.S. Patent Nos. 5,990,927 and 5,659,350. Thus, Hendricks '927 (U.S. Patent No. 5,990,927) is not prior art with respect to claims 41 and 114. Moreover, 35 U.S.C. §103(a) recites (emphasis added below):

"A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made."

Therefore, because Hendricks '927 is not prior art with respect to claims 41 and 114, Hendricks '927 cannot properly be included in a 35 U.S.C. §103(a) rejection against claims 41 and 114. Thus, the present rejection against claims 41 and 114 will be treated as a rejection only over the Lee reference.

Lee discloses "[a] technique for selectively inhibiting a video recorder from recording and/or reproducing those television programs, which are not authorized for viewing" (Abstract). However, Lee does not teach or suggest the limitations of claims

37 and 110, from which claims 41 and 114 depend, including those limitations discussed by the Examiner in the "Allowable Subject Matter" section of the Office Action mailed on February 24, 2005.

As such, Applicants submit that independent claims 37 and 110 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 41 and 114 depend directly from independent claims 37 and 110 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the rejection of such claims under 35 U.S.C. §103(a) be withdrawn.

CONCLUSION

Thus, Applicants submit that all of the claims presently in the application are non-obvious pursuant to 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: _____

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E J Wall

Eamon J. Wall
Registration No. 39,414
Attorney for Applicant

MOSER, PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808

